



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2005 Senate Bill 234	Senate Amendment 1
<i>Memo published: June 17, 2005</i> <i>Contact: David L. Lovell, Senior Analyst (266-1537)</i>	

Under *current law*, electric utilities and electric cooperatives (referred to here as “utilities”) are granted the power of eminent domain for the purpose of acquiring land for the construction of necessary utility facilities. However, property owned by the state, a municipality, or a county is not subject to condemnation, by a utility or any other entity.

2005 Senate Bill 234 provides that a county, city, village, town, public board, or commission (referred to here as “municipality”) that owns land on, over, or under which a utility proposes to construct a high-voltage transmission line must convey, at fair market value, the land to the utility, if the Public Service Commission has issued a Certificate of Public Convenience and Necessity (CPCN) authorizing construction of the line. The bill provides that fair market value is to be determined by averaging the results of two independent assessments of the property, one obtained by the municipality and the other obtained by the utility.

Senate Amendment 1 replaces the valuation process in the bill with an arbitration process. Beginning on the day that a utility notifies a municipality that a CPCN has been issued for a project crossing land owned by the municipality, the utility and municipality are given a 90-day period to negotiate the fair market value of the land. This negotiation period can be extended an additional 90 days by mutual consent of the parties. If the parties do not reach agreement during the negotiation period, the question of fair market value is determined by an arbitrator appointed by the circuit court of the county in which the land is located. The amendment specifies the following features of this arbitration process:

- The interest in the land must be conveyed to the electric utility upon commencement of the arbitration proceeding.
- The arbitration must be conducted on an expedited basis to the extent an expedited proceeding is available.

- The arbitrator and circuit court appointing the arbitrator have the powers and duties specified in ch. 788, Stats., *Arbitration*.
- The decision of the arbitrator concerning the fair market value of the land is binding on the parties, except as otherwise provided under ch. 788.

Legislative History

The Senate Committee on Energy, Utilities and Information Technology, on June 16, 2005, voted to recommend adoption of Senate Amendment 1 and passage of Senate Bill 234, as amended, on votes of Ayes, 5; Noes, 0.

DLL:rv